

APPENDIX

Article V, Part Two, Annual Contributions Contract between Local Authority and Public Housing Administration.**Sec. 501. Conveyance of Title or Delivery of Possession in Event of Substantial Default**

Upon the occurrence of a Substantial Default (as hereinafter in Sec. 506 defined) in respect to the covenants or conditions to which the Local Authority is subject hereunder, the Local Authority shall, at the option of the PHA, either (a) convey to the PHA title to the Projects as then constituted if, in the determination of the PHA (which determination shall be final and conclusive), such conveyance of title is necessary to achieve the purposes of the Act, or (b) deliver possession to the PHA of the Projects as then constituted.

Sec. 502. Delivery of Possession in Event of Substantial Breach

Upon the occurrence of a Substantial Breach (as hereinafter in Sec. 507 defined) in respect to the covenants or conditions to which the Local Authority is subject hereunder, the Local Authority shall, upon demand by the PHA, deliver possession to the PHA of the Projects as then constituted.

Sec. 503. Reconveyance or Redelivery

(A) If the PHA shall acquire title to or possession of the Projects pursuant to Sec. 501 or Sec. 502, the PHA shall reconvey or redeliver possession of the Projects, as constituted at the time of such reconveyance or redelivery, to the Local Authority (if it then exists) or to its successor (if a successor exists at the time of such reconveyance or such redelivery) as soon as practicable: (1) after the PHA shall be satisfied that all defaults and breaches with respect to the Projects have been cured and that the

Projects will, in order to fulfill the purposes of the Act, thereafter be operated in accordance with the terms of this Contract; or (2) after the termination of the obligation of the PHA to make annual contributions available unless there are any obligations or covenants of the Local Authority to the PHA which are then in default.

(B) Upon any reconveyance or redelivery of the Projects to the Local Authority, the PHA shall account for all monies which it has received or expended in connection therewith. If during the period in which the PHA has held title to or possession of the Projects, the PHA has expended any of its funds in connection with development or improvement of the Projects, the Local Authority at the time of the reconveyance or redelivery of the Projects shall pay to the PHA the amount of any such expenditures with interest thereon at the PHA Loan Interest Rate to the extent that the PHA has not theretofore been reimbursed for such amount or interest: *Provided*, That if the obligation of the PHA to make annual contributions under this Contract has not terminated, and if any portion of the amount which the Local Authority is obligated to pay to the PHA upon such reconveyance or redelivery constitutes Development Cost, the PHA shall accept, in lieu of payment in cash, an Advance Note or Permanent Note for such portion.

(C) No conveyance of title and reconveyance thereof, or delivery of possession and redelivery thereof, shall exhaust the right to require a conveyance of title or delivery of possession of the Projects to the PHA pursuant to Sec. 501 or Sec. 502 upon the subsequent occurrence of a Substantial Default or a Substantial Breach, as the case may be.

Sec. 504. Continuance of Annual Contributions

(A) The PHA hereby determines that Sec. 501 and Sec. 503 of this Contract include provisions that are in accordance with subsection (a) of Sec. 22 of the Act.

(B) Whenever the annual contributions, pursuant to this Contract, have been pledged by the Local Authority as security for the payment of the principal and interest on the Bonds or other obligations issued pursuant to this Contract, the PHA (notwithstanding any other provisions of this Contract) shall continue to make the annual contributions provided in this Contract available for the Projects so long as any of such Bonds or obligations remain outstanding; and, in any event, such annual contributions shall in each year be at least equal to an amount which, together with such income or other funds as are actually available from the Projects for the purpose at the time such annual contribution is made, will suffice for the payment of all installments, falling due within the next succeeding twelve months, of principal and interest on the Bonds or other obligations for which the annual contributions provided for in this Contract have been pledged as security: *Provided*, That in no case shall such annual contributions be in excess of the maximum sum specified in this Contract, nor for longer than the remainder of the maximum period fixed by this Contract.

Sec. 505. Rights and Obligations of PHA During Tenure Under Sec. 501 or Sec. 502

(A) During any period in which the PHA holds title to or possession of the Projects pursuant to Sec. 501 or Sec. 502, it shall (1) exercise diligence in the protection of the Projects, (2) complete the development of any Project or part thereof which is substantially completed at the time of acquisition by the PHA of such title or possession, as nearly as practicable in accordance with the provisions of this Contract, and (3) operate all completed Projects or parts thereof (including Projects or parts thereof which may be completed by the PHA) as nearly as practicable in accordance with the provisions of this Contract, including the carrying of insurance as described in subsections (A) and (B) of Sec. 305. The

PHA, at its option, may complete the development of any Project or any part thereof.

(B) During any period in which the PHA holds title to or possession of the Projects pursuant to Sec. 501 or Sec. 502, it may, in the name of, and on behalf of the Local Authority or in its own name and on its own behalf, exercise any or all of the rights and privileges of the Local Authority pursuant to this Contract and perform any or all of the obligations and responsibilities of the Local Authority pursuant to this Contract.

(C) Neither the conveyance of title to or the delivery of possession of the Projects by the Local Authority pursuant to Sec. 501 or Sec. 502, nor the acceptance of such title or possession by the PHA, shall abrogate or affect in any way any indebtedness of the Local Authority to the PHA arising under this Contract, and in no event shall any such conveyance or delivery or any such acceptance be deemed to constitute payment or cancellation of any such indebtedness.

Sec. 506. Definition of Substantial Default

For the purposes of this Contract a "Substantial Default" is defined to be the occurrence of any of the following events:

(1) If any Project shall cease to be exempt from all real and personal property taxes levied or imposed by the State, city, county, or other political subdivisions, or if the Local Authority without the approval of the PHA shall make or agree to make any payments in lieu of taxes in excess of those provided in the Cooperation Agreement; or

(2) If the Local Authority shall default in the observance of any of the provisions of Sec. 313, or if any Project shall be acquired by any third party in any manner including a bona-fide foreclosure under a mortgage or other lien held by a third party; or

(3) If the Local Authority shall fail to furnish certification as to compliance with the provisions of Sec. 16 (2) of the Act relating to the payment of prevailing salaries and wages as required by subsection (C) of Sec. 419; or

(4) If the Local Authority shall (a) refuse or neglect to issue and sell its Bonds in the amounts and at the time required by this Contract, or (b) fail to maintain the low-rent character of each Project as required by Sec. 202, or (c) fail to prosecute diligently the reconstruction, restoration, or repair of any Project as required by Sec. 214; and such refusal, neglect, or failure is not remedied within three months after the PHA has notified the Local Authority thereof; or

(5) If the Local Authority is in default in the performance or observance of any of the provisions of this Contract or of the Act, which default (except for the provisions of Sec. 504) would have the effect of preventing the PHA from paying or making available the annual contributions provided for in this Contract; or

(6) If the Local Authority shall abandon any Project, or if the powers of the Local Authority to operate the Projects in accordance with the provisions of this Contract are curtailed or limited to an extent which will prevent accomplishment of the objectives of this Contract.

Sec. 507. Definition of Substantial Breach

For the purposes of this Contract a "Substantial Breach" is defined to be the occurrence of any of the following events:

(1) If the Local Authority in the development of any Project has violated, or takes any action which threatens to violate, (a) any of the provisions of Part One of this Contract relating to the limitation on the cost for construction and equipment of such Project, or (b) any of the provisions of subsection (F) of Sec. 404; or

(2) If the Local Authority, in violation of subsection (H) of Sec. 407, has (a) at any time after the end of the Initial Operating Period for any Project incurred any Operating Expenditures with respect to such Project except pursuant to and in accordance with an approved Operating Budget for such Project, or (b) during any Fiscal Year or other budget period incurred with respect to any Project total Operating Expenditures in excess of the amount therefor shown in an approved Operating Budget (including revisions thereof) governing such Fiscal Year or other budget period; or

(3) If the Local Authority has violated any of the provisions of subsection (C) or (D) of Sec. 401; or

(4) If there is a breach of any of the provisions relating to the payment of prevailing salaries and wages which are required by this Contract to be included in contracts of the Local Authority in connection with the Projects; and such breach is not remedied or appropriate action to remedy the same initiated by the Local Authority within thirty days after the PHA has notified the Local Authority of such breach, or if such remedial action is not thereafter diligently prosecuted to conclusion; or

(5) If the Local Authority shall fail to prosecute diligently the development of each Project as required by subsection (B) of Sec. 102; and such failure is not remedied within three months after the PHA has notified the Local Authority of such failure; or

(6) If, through any action, failure to act, or fault of the Local Authority, its officers, agents, or employees (including the Fiscal Agent); there shall be a default in the payment of any installment of the principal of or interest on any of the Bonds when the same shall become due (whether at the maturity thereof or by call for redemption or otherwise); and such default shall continue for a period of sixty days; or

(7) If there is a flagrant default or breach by the Local Authority in the performance or observance of any term, covenant, or condition of this Contract; or

(8) If there is any default or breach by the Local Authority in the performance or observance of any term, covenant, or condition of this Contract other than the defaults or breaches enumerated in Sec. 506 or in subsections (1) through (7) of this Sec. 507; and if such default or breach has not been remedied within thirty days (or such longer period as may be set by the PHA) after the PHA has notified the Local Authority thereof.

Sec. 508. Other Defaults or Breaches, and Other Remedies

(A) Neither the provision of the special remedies set forth in Sec. 501 and Sec. 502 in the event of a Substantial Default or a Substantial Breach, as the case may be, nor any exercise thereof, shall affect or abrogate any other remedy which may be available to the PHA in the event of a Substantial Default, Substantial Breach, or any other default or breach; and the PHA may, during any period in which it holds title to or possession of the Projects pursuant to Sec. 501 or Sec. 502, exercise any other remedy available to it. Neither the definition of certain defaults or breaches as Substantial Defaults or Substantial Breaches, nor the provision of special remedies therefor, shall be deemed to constitute an agreement that any other type of default or breach shall be considered insignificant or without remedy.

(B) If the Local Authority shall at any time be in default or breach, or take any action which will result in a default or breach, in the performance or observance of any of the terms, covenants, and conditions of this Contract, then the PHA shall have, to the fullest extent permitted by law (and the Local Authority hereby confers upon the PHA the right to all remedies both at law and in equity which it is by law authorized to so confer) the right (in addition to any rights or remedies in this Con-

tract specifically provided), to maintain any and all actions at law or in equity against the Local Authority to enforce the correction of any such default or breach or to enjoin any such default or breach.

(C) The remedies of the PHA, whether provided by law or by this Contract, shall be cumulative, and the exercise of any one or more of such remedies shall not preclude the exercise, at the same or different times, of any other such remedies for the same default or breach or for any other default or breach by the Local Authority of any covenant or agreement on its part contained in this Contract.

(D) No act of the PHA (except the issuance of a waiver in writing), nor any omission by the PHA to act, shall constitute or be construed as a waiver of any provision of this Contract or of any default or breach of the Local Authority. No waiver by the PHA of a specific default or breach under this Contract shall constitute a waiver of, or an agreement to waive, or a precedent for waiving, any similar default or breach subsequently occurring hereunder.

Sec. 509. Right of PHA to Terminate Contract

The PHA may at any time by notice to the Local Authority declare this Contract terminated with respect to any Project which at such time has not been Permanently Financed if (1) the Local Authority has made any fraudulent or willful misrepresentation of any material fact in any document or data submitted to the PHA as a basis for this Contract or as an inducement to the PHA to enter into this Contract, or (2) a Substantial Default or Substantial Breach exists in connection with any of the Projects: *Provided*, That no such termination shall affect any obligation of the PHA to make annual contributions available pursuant to subsection (B) of Sec. 504.

Sec. 510. Rights of Third Parties

(A) The PHA covenants and agrees with and for the benefit of the holders from time to time of the Bonds and of interest claims thereunder, that it will pay the annual contributions pledged as security for such Bonds and interest pursuant to this Contract. To enforce the performance by the PHA of this covenant such holders, as well as the Local Authority, shall have the right to proceed against the PHA by action at law or suit in equity.

(B) Nothing in this Contract contained shall be construed as creating or justifying any claim against the PHA by any third party other than as provided in subsection (A) of this Sec. 510.

Sec. 511. Approvals and Notices

(A) Whenever under this Contract approvals, authorizations, determinations, satisfactions, or waivers of the PHA are required, such approvals, authorizations, determinations, satisfactions, or waivers shall be effective and valid only when given either (1) by general orders or regulations duly issued from time to time by the PHA, or (2) in specific cases, in writing; signed by a duly authorized officer of the PHA, and delivered to the Local Authority.

(B) Any notice or demand given under this Contract shall be in writing, and signed by a duly authorized officer of the party giving such notice or demand. Such notice or demand shall be deemed to have been given at the time it shall have been received at the principal office of the party to whom it is directed.

Sec. 512. Waiver or Amendment

Any right or remedy which the PHA may have under this Contract may be waived in writing by the PHA without the execution of a new or supplemental agreement; or

by mutual agreement of the parties hereto this Contract may be amended in writing: *Provided*, That none of the provisions of this Contract may be modified or amended so as to impair in any way the obligation of the PHA to pay any annual contributions which have been pledged as security for any obligations of the Local Authority.

Sec. 513. Titles, Tables of Contents, and Index

The titles of the several Articles and Sections of this Contract and the table of contents and index to this Contract are inserted for convenience of reference only, and shall be disregarded in construing or interpreting any of the provisions of this Contract.

Sec. 514. Severability of Provisions

If any provision of this Contract is held invalid, the remainder of this Contract shall not be affected thereby if such remainder of this Contract would then continue to conform to the terms of the Act.

Sec. 515. Interest of Members, Officers, or Employees of Local Authority

(A) Neither the Local Authority nor any of its contractors or their subcontractors shall enter into any contract, subcontract, or arrangement, in connection with any Project or any property included or planned to be included in any Project, in which any member, officer, or employee of the Local Authority during his tenure or for one year thereafter has any interest, direct or indirect. If any such present or former member, officer, or employee involuntarily acquires or had acquired prior to the beginning of his tenure any such interest, and if such interest is immediately disclosed to the Local Authority and such disclosure is entered upon the minutes of the Local Authority, the Local Authority, with the prior approval of the PHA, may waive the prohibition contained in this subsection: *Pro-*

vided, That any such present member, officer, or employee shall not participate in any action by the Local Authority relating to such contract, subcontract, or arrangement.

(B) The Local Authority shall insert in all contracts entered into in connection with any Project or any property included or planned to be included in any Project, and shall require its contractors to insert in each of its subcontracts, the following provision:

"No member, officer, or employee of the Local Authority during his tenure or for one year thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof."

(C) The provisions of the foregoing subsections (A) and (B) of this Sec. 515 shall not be applicable to the purchase or sale of Temporary Notes or the Bonds, or to the General Depository Agreement, fiscal agency agreements, the trusteeships authorized under this Contract, or utility services the rates for which are fixed or controlled by a governmental agency.

Sec. 516. Members of Local Authority Not Individually Liable

No member or officer of the Local Authority shall be individually liable on any obligation assumed by the Local Authority hereunder.

Sec. 517. Interest of Member of or Delegate to Congress

No member of or Delegate to the Congress of the United States of America or Resident Commissioner, shall be admitted to any share or part of this Contract or to any benefits which may arise therefrom.

Sec. 518. Termination of Obligations

Upon payment in full of all indebtedness of the Local Authority in connection with the Projects for which annual contributions are pledged, and upon the payment of any